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Attorneys for Plaintiff,
BISCOTTI, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BISCOTTI, INC.,

Plaintiff,

v.

KANDY KISS OF CALIFORNIA, INC.
d/b/a Zoey,

Defendants.

Case No. 3:07-cv-3681 BZ

**REQUEST TO ENTER DEFAULT RE: KANDY
KISS OF CALIFORNIA dba ZOEY**

Complaint Filed: July 17, 2007

TO: THE CLERK OF THE ABOVE-ENTITLED COURT:


Plaintiff, BISCOTTI, INC., hereby requests that the Clerk of the above-entitled Court enter default in this matter against defendant, KANDY KISS OF CALIFORNIA dba ZOEY, on the grounds that said defendant has failed to appear or otherwise respond to the complaint within the time prescribed by the Federal Rules of Civil Procedure. Plaintiff served the complaint on defendant, KANDY KISS OF CALIFORNIA dba ZOEY, on July 23, 2007, evidenced by the proof of service of summons on file with this court.

1 The above stated facts are set forth in the accompanying declaration of Rosalyn P. Mitchell,
2 filed herewith.

3
4 Dated: September 17, 2007

NIXON PEABODY LLP

5
6 By:



GLENN E. WESTREICH
ROSALYN P. MITCHELL
Attorneys for Plaintiff
BISCOTTI, INC.

PROOF OF SERVICE

Biscotti, Inc. v. Kandy Kiss of California, Inc., et al.
United States District Court, Northern District
Case No. 3:07-cv-3681 BZ

I, the undersigned, certify that I am employed in the City and County of San Francisco, California; that I am over the age of eighteen years and not a party to the within action; and that my business address is Nixon Peabody LLP, One Embarcadero Center, 18th Floor, San Francisco, CA 94111-3600.

On September 17, 2007, I served the following document(s):

REQUEST TO ENTER DEFAULT RE: KANDY KISS OF CALIFORNIA
dba ZOHEY

on the parties stated below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below by the following means of service:

- X: By First-Class Mail — I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with first-class postage thereon fully prepaid, in San Francisco, CA, for mailing to the office of the addressee following ordinary business practices.
- ___: By Personal Service — I caused each such envelope to be given to a courier messenger to personally deliver to the office of the addressee.
- ___: By Overnight Courier — I caused each such envelope to be given to an overnight mail service at San Francisco, CA, to be hand delivered to the office of the addressee on the next business day.
- ___: By Facsimile — From facsimile number 415-984-8300, I caused each such document to be transmitted by facsimile machine, to the parties and numbers listed below, pursuant to Rule 2008. The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a transmission record of the transmission, a copy of which is attached to the original of this declaration.

Addressee(s)

David Bonenfant 16055 Ventura Blvd., Suite 510 Encino, CA 91436	Attorneys for Defendant Kandy Kiss of California, dba Zoey
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I declare under penalty of perjury that the foregoing is true and correct. Executed on September 17, 2007, at San Francisco, California.



Cara M. Kim